

- B4 cont*
30. The drug treatment regimen according to claim 26 wherein the opioid antagonist is naltrexone present in the amount of 10-25 mg, and the antidepressant is fluoxetine present in the amount less than 20 mg.

#### REMARKS

Claims 1-30 are pending.

The Examiner is thanked for the very courteous and helpful telephonic interview of November 6, 2001 where the outstanding action was discussed. While no agreement on the issues was reached, Applicant offerings the following remarks which are believed consistent with the discussions held during that interview.

By the present amendment, claims 16 and 17 have been amended to be consistent with claim 15. In addition, the preamble of claims 8, and 21-25 have been amended so as to address the Examiner's 35 U.S.C. §112 concerns set forth in paragraph 4 of the outstanding Official Action. For example, Claim 8 has been amended so as to specifically recite a method of treating depression in a patient also being treated for alcoholism. Support for this language can be found at least in Examples 1 and 4 of the specification. In addition, the preamble of claims 21-25 have been amended so as to recite a "drug combination". Finally, claims 26-30 have been added to provide additional protection for the inventive subject matter. Support for the terminology of claims 21-30 can be found at least in the first full paragraph of column 3 of the specification as well as Examples 2, 4, 7, 8, and 9. Thus, no new matter has been added.

Applicant submits that there is clear support for the claims as currently presented. However, this amendment in no way indicates a concurrence in the examiner's position. Instead, Applicant believes that the previous claim language found adequate written description support in the specification for the reasons set forth on pages 6-7 of the Preliminary Amendment and Request for Interference.

The outstanding action also indicated that the specification lacked support for the "composition" of claim 14. Applicant submits, however, that the specification is replete with disclosure that adequately supports such a claim. See, for example, column 1, lines 12-32; column 4,

lines 7-13; and Examples 2, 4, 7, 8, and 9. Thus, Applicant is somewhat confused about the basis of this position. In light of the foregoing the rejection of paragraph 4 should be withdrawn.

The Examiner has also objected to the reissue Oath/Declaration and rejected claims 8-25 based on the allegedly defective reissue Declaration in paragraphs 1-2 of the outstanding Action. This rejection is respectfully traversed.

In this regard, attention of the Examiner is directed to MPEP § 1449 which (i) supports Applicant's assertion that a reissue can be based upon the desire to provoke an interference and (ii) provides suitable language largely identical to that appearing in the reissue Oath/Declaration filed in the present application. Accordingly, withdrawal of the objection to the Declaration and the rejection of the claims based thereon is in order.

Finally, Applicants once again request an interference be set up between the present application and U.S. Patent 5,948,962. The proposed count and claims corresponding to the count remain as set forth in Section II appearing on pages 7-8 of the Preliminary Amendment.

Applicant submits that, based on the definition in 37 C.F.R. §1.601(n), the method set forth in Claim 1 of the '962 patent is the "same patentable invention" as the methods recited in claims 1 and 8 of this reissue application (as well as the claims that depend thereon).

In particular, it is important to remember that the definition of "same patentable invention" does not require **identity** of invention only that the claims in question are "the same as (35 U.S.C. 102) or **obvious** (35 U.S.C. 103) in view" of each other. That is, Applicant submits that Claim 1 of the '962 patent would be rendered obvious by either claims 1 or 8 of this present reissue application. Alternatively, claim 8 of this reissue application would be rendered obvious by claim 1 of the '962 patent.

Similarly, Applicant submits that Claim 2 of the '926 patent is the "same patentable invention" as claims 14, 21 and 26 of this reissue application (as well as the claims which depend thereon). Finally, based upon 37 C.F.R. §1.601 (n), the "pharmaceutical kit" set forth in Claim 3 of the '962 patent is the "same patentable invention" as the "drug combination" and "drug treatment regimen" set forth in the Claims 21-30 of this application.

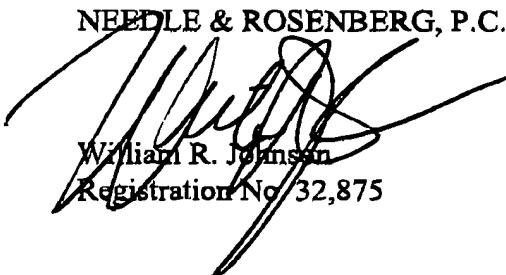
Finally, in response to paragraph 5 of this action, Applicant submits that if **any** of the claims set forth in the '962 patent defines the "same patentable invention" as **any** of claims 1-30 of this reissue application, then an interference should be set up.

Upon receipt and review of this amendment, the undersigned requests the examiner to contact him to set up a telephone and/or personal interview with respect to the foregoing. In the meantime, should the examiner have any questions regarding this amendment or the application, he is invited to telephone the undersigned at his earliest convenience.

The Commissioner is hereby authorized to charge the amount of \$174.00 to cover the additional claims fee to Deposit Account No. 14-0629. No additional fees are believed to be due.

Respectfully submitted,

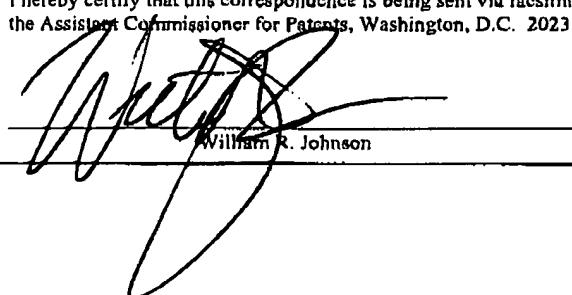
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Certificate of Facsimile

I hereby certify that this correspondence is being sent via facsimile to Examiner William R. Jarvis at Fax No. (703) 308-4556 addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, on the date indicated below.

  
William R. Johnson

11/13/01

Date